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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,415	06/18/2001	Uwe Sydon	99 P 7358 US 01	3184

7590 05/05/2003

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

EXAMINER

CORRIELUS, JEAN B

ART UNIT

PAPER NUMBER

2631

DATE MAILED: 05/05/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,415

Applicant(s)

SYDON ET AL.

Examiner

Jean B Corrielus

Art Unit

2631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13 and 16-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13 and 16-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☒ Other: NOTICE OF ABANDONMENT

Art Unit: 2631

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 13, 16-27 and 31-33 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 13, lines 11-13, recites the second power level less than the first power level, when the line quality for the initial signal is superior to a predetermined threshold and the communication strength is greater than a specified range, however, the specification as filed does not provide support for such limitation as claimed. The specification teaches at best at page 17, lines 14-26 the second power level at branch (332) less than the first power level, when the line quality for the initial signal in decision element 304 is **inferior** to a predetermined threshold (slow hop threshold) and the communication strength (RSSI) in decision box 330 is greater than a specified range (desired range). The same comment applies equally to claims 26 and 31, respectively.

As per claim 19, recites the first component is requested to transmit to transmit at maximum power when the line quality is inferior to the predetermined threshold and the first

Art Unit: 2631

power level is non maximum, however, the specification as filed does not provide support for such limitations as claimed. The specification teaches at best at page 16, lines 17-21, the first component is requested to transmit at maximum power when the line quality for the initial signal in decision element 304 is **superior** to the predetermined threshold (slow hop threshold) and the first power is non maximum in decision 306. The same comment applies to claims 21 and 32, respectively.

Note that each dependent claim is likewise rejected for being dependent on rejected base claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lundby et al in view of Vannatta et al US patent No. 5,999,832.

Lundby et al discloses a method having the steps of: providing communication between a first and second component see fig. 1B and fig. 2A and col. 9, lines 34-36; receiving an initial signal from the first component at the second component see col. 9, lines 48-52; determining a plurality of successive line quality indicators for the initial signal at the second component see

Art Unit: 2631

col. 10, line 1-2; determining a line quality for the initial signal at the second component by summing consecutive line quality indicators over a predetermined period of time see col. 10, lines 4-8; transmitting from the second component to the first component a request for the first component to transmit a subsequent signal at a second power level based on the line quality see col. 10, line 8 and col. 9, lines 62-66. Lundby et al does not explicitly teach that the second power level is based on the quality and power level of the first (initial) signal. However, such limitation does not involve any inventive step. For instance, Vannatta et al, US patent No. 5,999,832, teaches fig.10, step 1012 the selection of a second power level based on power level information and signal quality. It would have been obvious to one skill in the art at the time of the invention to select the subsequent power level based on signal level and power level of the first signal so as to increase the efficiency and the life of the battery source and operating time of mobile station as taught by Vannata see col. 5, lines 56-59.

As per claims 29 and 30, the first component is either a base unit or a mobile unit and the second component is either a base unit or a mobile unit see the figures.

Response to Arguments

5. Applicant's arguments filed 8/21/02 have been fully considered but they are not persuasive. Examiner agrees with applicant that **slow hop counter** is an indication of signal quality and that low value of the counter is an indication of **higher signal quality** and a high value is an indication of **lower signal quality**. However, the question at issue is not whether a

Art Unit: 2631

high value of the counter is an indication of **lower signal quality** and a low value of the counter is an indication of a **higher signal quality** rather is whether the specification as filed teaches “the second power level less than the first power level, **when the line quality for the initial signal is superior to a predetermined threshold** and the communication strength is greater than a specified range”. A close review of the specification more specifically in the section noted by applicant in the last office response does not show support for the invention as claimed. As stated in the **last two office actions**, the specification only teaches at page 17, lines 14-26 and in combination with fig. 3, the **second power** level at branch (332) less than the first power level, **when the line quality for the initial signal (slow how counter)** in decision element 304 is **inferior** to a predetermined threshold (slow hop threshold) and the communication strength (RSSI) in decision box 330 is greater than a specified range (desired range). It is further alleged that Lundby does not teach the limitations of “summing line quality indicators of an initial signal from a first component to a second component”. Note that the signal to noise ratio, for each data stream, taught by Lundby, is an indication of line quality therefore summing the plurality of SNR taught by Lundby is the same as the claimed “summing a plurality of lines quality indicators.”

Conclusion

6. This is a request for continued examination of applicant's earlier Application No.09/884,415. All claims are drawn to the same invention claimed in the earlier application and

Art Unit: 2631

could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion

7. **Any response to this final action should be mailed to:**

Box AF

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Art Unit: 2631

or faxed to:

(703) 305-872-9314, (for formal communications; please mark "EXPEDITED PROCEDURE") and (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Corrielus whose telephone number is (703) 305-4023.

The examiner can normally be reached on Monday-Thursday from 7:00 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on (703) 305-4378.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.

 4-25-03
Jean B. Corrielus

Primary Examiner

TC-2600

Notice of Abandonment

Application No.

09/884,415

Examiner

Jean B Corrielus

Applicant(s)

SYDON ET AL.

Art Unit

2631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 04 September 2002.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Jm Corrielus
JEAN B. CORRIELUS
PATENT EXAMINER

4-17-03

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.